



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable J. C. Roe  
County Attorney  
Navarro County  
Corsicana, Texas

Dear Sir:

Opinion No. 0-7260  
Re: Validity of Section 2, Par. 3,  
State Equalization Law, 1945-47.

This acknowledges receipt of your letter of May 29, 1946, which reads as follows:

"Paragraph 3 of Section 2 of State Equalization Laws of 1945-1947, as contained in official publication of Public School Laws of the State of Texas, at page 280 reads:

"No school district will be eligible for aid under the provisions of this act which has reduced its tax rate within the two years immediately preceding the year for which aid is applied for hereunder or which has reduced its tax valuation in order to show budgetary need."

"We have about two school districts in Navarro County who fall within the purview of this section of the statute, although they meet all other requirements as contained in the act.

"I am desirous of your opinion of the legality of the above section of the Statute. It occurs to me that the same is unreasonable and arbitrary in its prescription of the recipients of the aid, and in effect it penalizes certain school districts which have so conducted their finances as to be able to reduce their tax rate but still meet all the qualifications necessary to secure the aid provided, and that the qualifications placed on such recipients by such section of the statute should be stricken from

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the same because of such unreasonableness and because same is an arbitrary classification upon class legislation and wholly defeats the purpose, aim and object of the legislature.

"Please advise me as to the constitutionality of the above section of the statute above referred to at your earliest convenience and oblige."

Your attack against the paragraph above quoted of the Rural Aid Law is apparently based upon the Article of our Constitution which prohibits discriminatory and class legislation, and also Sec. 5 of Article 7, which defines the "available school fund" and declares this fund "shall be distributed to the several counties according to their scholastic population."

Since the case of *Mumme v. Marrs*, 40 S. W. (2) 31, decided by our Supreme Court is squarely decisive of the issues raised by your request, we quote very liberally from it:

". . . Since the Legislature has the mandatory duty to make suitable provision for the support and maintenance of an efficient system of public free schools, and has the power to pass any law relative thereto, not prohibited by the Constitution, it necessarily follows that it has a choice in the selection of methods by which the object of the organic law may be effectuated. The Legislature alone is to judge what means are necessary and appropriate for a purpose which the Constitution makes legitimate. The legislative determination of the methods, restrictions and regulations is final, except when so arbitrary as to be violative of the constitutional rights of the citizen. 6 Ruling Case Law, p. 155[154] . . .

"As to whether or not a law secures due process and equal protection as required by the Constitution depends upon the subject on which it operates and the character of rights which it affects. The constitutional guarantee does not forbid the state from

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adjusting its legislation to differences in situation. Equal protection of laws is secured if the statutes do not subject the individual to arbitrary exercise of the powers of government. It is well settled that legislation is not open to objection if all who are brought under its influence are treated alike in the same circumstances. 9 Texas Jurisprudence, p. 553 §117. In the very nature of society with its manifold occupations and contacts, the Legislature must have, and clearly does have, authority to classify subjects of legislation, and, when the classification is reasonable - that is, based upon some real difference existing in the subject of the enactment - and the law applies uniformly to those who are within the particular class, the act is not open to constitutional objection. 9 Texas Jurisprudence, p. 555, §119, p. 558, §120, p. 561, §121.

"The provision of the law that a school shall not be eligible to receive rural aid until it votes a tax of 75 cents on the \$100 valuation of the taxable property of the district is not an unreasonable requirement, because well below the maximum permitted by the Constitution and laws of the state. It may be voted or not, as determined by the taxpayers themselves. Nor is it discriminatory, since it applies to all districts alike which apply for aid."

We believe the last quotation rules the question at hand and you are therefore advised that the section of the Rural Aid Law inquired about is constitutional.

Although you have stated that the school districts in question are not eligible for State Aid by reason of the above quoted paragraph, we are enclosing copies of Opinions Nos. 0-6768, 0-7017, 0-7096 and 0-7217, which interpret this paragraph.

Yours very truly

ATTORNEY GENERAL OF TEXAS

*Woodrow Edwards*

By Woodrow Edwards  
Assistant



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APPROVED JUN 20 1946  
J. C. ROE  
ATTORNEY GENERAL  
WE:BT